

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

REMARKS

This Amendment is submitted in response to the final Office Action dated July 27, 2005. Claims 1, 4-13, 16, 17 and 19-24 remain pending in the application and stand rejected. Claims 1, 9 and 17 have been amended herein. Applicants assert that the pending claims are now in condition for allowance and respectfully request reconsideration in view of the following remarks.

Claims Rejected Under 35 U.S.C §103

Claims 1, 5, 8, 10-13, 16, 17 and 22-24 stand rejected under 35 U.S. C. §103(a) as being unpatentable over U.S. Patent No. 6,089,522 to Haslem et al. Claims 1 and 17 are the only independent claims of this rejected group and are directed to chairs for supporting and spacing concrete reinforcing members. Claim 1 recites "a plurality of ribs on the outer surface and extending outwardly from an outer profile of the body to facilitate separating individual chairs from a stack." Claim 17 recites similar language. While Applicants believe that claims 1 and 17 are not taught or suggested by Haslem '522, claims 1 and 17 have been amended herein in an effort to advance prosecution. Specifically, claim 1 has been amended to further recite "each rib extending in a direction from the lower base toward the upper receiving area and having a length that spans only a portion of the outer surface." Claim 17 has been amended to recite similar language. Support for these amendments can be found in the originally

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

filed application, for example, at page 9, lines 9-11, and with reference to the figures. Accordingly, Applicants assert that no new matter has been added by these amendments.

Applicants assert that the amendments to claims 1 and 17 clearly distinguish over Haslem '522, because Haslem '522 does not teach or suggest ribs extending outwardly from an outer profile of the body and having a length that spans only a portion of the outer surface, as recited in amended claims 1 and 17. Rather, the features referred to in Fig. 5 of Haslem '522 (see final Office Action at page 2) are the outer surfaces of the chair body 10 at the corners of the chair body. These outer surfaces 24 extend over the entire outer surface of the chair, as do the corrugations 90. There is no teaching or suggestion in Haslem '522 or the other references of record to modify the surfaces 24 or corrugations 90 such that they have lengths that span only a portion of the outer surface, as recited in amended claims 1 and 17. The reduced lengths of the ribs help to space the confronting surfaces of stacked chairs, while minimizing friction between contacting surfaces of the chairs, so that they may be more easily separated as needed. This advantage of the claimed invention is not appreciated by the references of record.

Morover, outer surfaces 24 do not extend "outwardly from an outer profile of the body." Close inspection of Fig. 5, as well as the other figures in Haslem '522 shows that the surfaces 24 are merely the intersection of the respective sides of the

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

chair body 10 and do not extend outwardly of the profile of the chair body, as required by claims 1 and 17. Accordingly, the surfaces 24 of the chairs of Haslem '522 do not extend outwardly from the outer profile of the chairs, and the respective confronting inner and outer surfaces of a series of stacked chairs will directly contact one another along these surfaces, making separation of the stacked chairs more difficult.

In contrast, the ribs 20, 120, 120b shown in the various embodiments of the application clearly extend outwardly from the outer profile of the body 10. These outwardly extending ribs space the respective confronting inner and outer surfaces of a series of stacked chair bodies some distance apart, so that the stacked chairs may be more easily separated from one another. For at least the reasons discussed above, Applicants respectfully request that the rejections of claims 1 and 17 over Haslem '522 be withdrawn.

Claim 1 further recites that the claimed chair comprises "a unitary integrally formed body . . . including at least two pairs of diametrically opposed notches." Claim 17 recites similar language. Applicants assert that there is no teaching or suggestion to make the notched headpieces (100) of Haslem '522 integral with the chair bodies 10 as required by claims 1 and 17. Rather, Haslem '522 teaches away from making the notched headpieces (100) integral with chair bodies 10, so that headpieces of various heights may be used with the same chair body, thereby providing different heights while reducing inventory (see Haslem '522 at col. 10, lines 25-30; col.

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

11, lines 10-19). For at least these additional reasons, Applicants respectfully request that the rejections of claims 1 and 17 over Haslem '522 be withdrawn.

Claims 5, 8, 10-13 and 16 each depend from independent claim 1, and claims 22-24 each depend from independent claim 17. Accordingly, Applicants assert that claims 5, 8, 10-13, 16 and 22-24 are in condition for allowance for at the least the reasons stated above for claims 1 and 17 and Applicants respectfully request that the rejections of these claims over Haslem '522 be withdrawn.

Claims 4 and 19 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Haslem '522 in further view of U.S. Patent No. 6,732,484 to Sotelo et al. Claims 6, 7, 20 and 21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Haslem '522. Claims 4, 6 and 7 each depend from independent claim 1, and claims 19-21 each depend from independent claim 17. Accordingly, claims 4, 6, 7 and 19-21 each include the features recited in their respective independent claims. Applicants respectfully traverse the rejections of claims 4, 6, 7 and 19-21 because Haslem '522 does not teach or suggest each and every element recited in these claims, as discussed above with respect to independent claims 1 and 17, and because the combination of Haslem '522 with Sotelo '484 fails to cure the deficiencies of claims 4 and 19. Specifically, Haslem '522 fails to teach or suggest a plurality of ribs on the outer surface of a chair body, the ribs extending outwardly from an outer profile of the body and having lengths that span only a portion of the outer surface, as

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

discussed above with respect to claims 1 and 17. Moreover, Haslem '522 only suggests having either foot members associated with each leg of the chair body, or no foot members associated with any of the legs of the chair body. There is no teaching or suggestion to include foot members on only two of the legs, as recited in the claims 6, 7, 20 and 21.

The combination of Haslem '522 with Sotelo '484 does not cure these deficiencies. Specifically, Sotelo '484 is directed to a chair support which does not include ribs that extend outwardly from an outer profile of the body to facilitate separating individual chairs from a stack. Moreover, the configuration of the chair of Sotelo '484 prohibits stacking the chairs within one another, as required by claims 1 and 17. Accordingly, there is no teaching or suggestion in Sotelo '484, nor any of the references of records to modify the chair of Haslem '522 in a manner that results in the claimed invention. For at least these reasons, Applicants respectfully request that the rejects of claims 4, 6, 7 and 19-21 be withdrawn.

Claim 9 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Haslem '522 in combination with U.S. Patent No. 5,729,949 to Hartzheim. Claim 9 depends from independent claim 1, and therefore is in condition for allowance for at least the reasons stated above for claim 1. Specifically, Haslem '522 fails to teach or suggest ribs on the outer surface of a chair body, the ribs extending outwardly from an outer profile of the body and having lengths that span only a portion of the outer

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005

surface, as discussed above. Hartzheim '949 is directed to a chair having generally smooth outer walls without any ribs extending outwardly from an outer profile of the chair body, as required by the claims. For at least these reasons, Applicants respectfully request that the rejection of claim 9 over Haslem '522 in view of Hartzheim '949 be withdrawn.

Applicants further traverse the rejection of claim 9 and the Examiner's assertion that "Hartzheim discloses notches having bearing surfaces extending inwardly from the outer surface of the support body," (final Office Action at page 5). Specifically, Applicants note that the "bearing surfaces" referred to by the Examiner are merely the thicknesses of the continuous wall portions 20 of the chairs. Nevertheless, in an effort to advance prosecution, claim 9 has been amended to more clearly distinguish this feature of the claimed invention by reciting that the bearing surfaces extend "inwardly from the inner surface of the support body" (emphasis added). Support for this amendment can be found with reference to the figures of the application which clearly depict the claimed bearing surfaces of the notches (e.g., 24a, 24b in Fig. 1) which extend inwardly from the inner surface 16. Such structure is not taught or suggested by the references of record and Applicants respectfully request that the rejection of claim 9 over Haslem '522 in view of Hartzheim '949 be withdrawn.

Application No. 10/606,498
Amendment dated September 26, 2005
Reply to Office Action of July 27, 2005


Conclusion

In view of the foregoing amendments to the claims and the remarks set forth herein, Applicants respectfully believe this case is in condition for allowance and respectfully request allowance of the pending claims. If the Examiner believes any issue requires further discussion, the Examiner is respectfully asked to telephone the undersigned attorney so that the matter may be promptly resolved. The Examiner's prompt attention to this matter is appreciated.

Applicants are of the opinion that no additional fee is due as a result of this amendment. If any charges or credits are necessary to complete this communication, please apply them to Deposit Account No. 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

By: 
David W. Dorton, Reg. No. 51,625

2700 Carew Tower
441 Vine Street
Cincinnati, OH 45202
(513) 241-2324 (voice)
(513) 241-6234 (facsimile)